

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1758 of 1986

WITH

SPECIAL CIVIL APPLICATION No 1759 of 1986

AND

SPECIAL CIVIL APPLICATION No 1760 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MALJI D VASAVA & OTHERS

Versus

STATE OF GUJARAT & OTHERS

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Appearance:

MR SA MEHTA for MR SI NANAVATI for Petitioners

MR ND GOHIL for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/10/96

ORAL JUDGEMENT

1. The facts and grounds of these Special Civil Applications are common, and as such, the same are being disposed of by this common judgment.
2. The petitioners have challenged by this Special

Civil Applications the impugned orders made by the Dy. Collector, Rajpipla, Dist. Broach in exercising the powers under sec. 10 of Saurashtra Felling of Trees (Infliction of Punishment) Act, 1951.

3. One of the ground raised by the learned counsel for the petitioners is that the respondent no.2 was not the competent authority to exercise the revisional powers in the matter under sec. 10 of the aforesaid Act. The counsel for the petitioner contended that the revisional powers under sec. 10 of the aforesaid Act is vested only in the Government i.e. Secretary to the first respondent and not with the respondent no.2.

4. The counsel for the respondents Shri N.D. Gohil does not controvert this aspect.

5. In view of this fact, I do not consider it appropriate to go on merits of the matter and to consider other objections. The order of the respondent no.2 can not be allowed to stand. At the same time, it is not correct to say by the petitioners that the matter cannot be sent before the appropriate authority i.e. respondent no.1. It is a matter where undisputedly the revisional powers vest in the Government under sec.10 of the aforesaid Act against the order made by the Mamlatdar under sec.3 of the said Act. Suo moto revisional powers are available and no limitation has been prescribed.

6. In view of this fact, the orders dated 4-3-1986 annexure 'A' impugned in all these Special Civil Applications are set aside. However, the respondent no.1 is directed to decide these matters under sec.10 of the aforesaid Act under its revisional powers. The petitioners are directed to remain present before the respondent no.1 i.e. the Secretary or the Additional Secretary as the case may be of the Revenue Department of the Government of Gujarat on 25-11-1996. The respondent no.1 will decide the matter within a period of three months thereafter. The office is directed to issue the writ forthwith to the respondent no.1. Rule is made absolute in the aforesaid terms with no order as to costs.

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